ORDINANCE NO. 21-553

AN ORDINANCE OF THE CITY OF BUNKER HILL VILLAGE, TEXAS, AMENDING ITS CODE OF ORDINANCES TO ADD A NEW DIVISION 3, AUTOMATED LICENSE PLATE RECOGNITION CAMERAS, TO ARTICLE V, RIGHT-OF-WAY MANAGEMENT, OF CHAPTER 13, STREETS AND SIDEWALKS, TO PROVIDE CERTAIN DEFINITIONS, AND ALLOWING AUTOMATED LICENSE PLATE RECOGNITION CAMERAS IN THE CITY'S RIGHTS-OF-WAY WHEN SUCH A CAMERA IS APPROVED BY THE MEMORIAL VILLAGES POLICE DEPARTMENT AND THE CITY; REQUIRING APPLICATION FOR A PERMIT UPON CERTAIN CONDITIONS; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED $2,000.00 FOR EVERY VIOLATION HEREOF, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING AN EFFECTIVE DATE; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

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WHEREAS, the Memorial Villages Police Department ("MVPD") has initiated an Automated License Plate Recognition ("ALPR") Camera Program in the City and MVPD Jurisdiction; and

WHEREAS, MVPD contracts with a private entity to own, install and maintain these ALPR Cameras; and

WHEREAS, it is the intent of MVPD to strategically place ALPR Cameras to create a virtual safety gate for investigative purposes; and

WHEREAS, the City Council desires to facilitate cooperation between MVPD and the City's residents to provide additional ALPR cameras at the resident's expense in the City; and

WHEREAS, MVPD is in a position to coordinate with City staff in determining the placement of additional ALPR cameras within the City's rights-of-way to enhance the virtual safety gate and investigative purposes; and

WHEREAS, the City Council finds that it is in the best interest of the health, safety and welfare of the citizens to allow additional ALPR cameras, privately funded by residents, as set forth in this ordinance; now, therefor,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUNKER HILL VILLAGE, TEXAS:

Section 1. The facts and matters contained in the preamble of this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Bunker Hill Village, Texas is hereby amended by adding a new Division 3, Private Security Cameras, to Article V, Right-of-Way Management, of Chapter 13, Streets and Sidewalks, such Division 3 to read as follows:

"Division 3. Automated License Plate Recognition Cameras.

Section 13-118. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automated License Plate Recognition ("ALPR") Camera shall mean a strategically placed recording device that is owned and operated by a private entity for capturing images or video and transmitting data for use by the MVPD.

ALPR Camera Provider shall mean a third party vendor providing ALPR cameras approved by the Memorial Villages Police Department.

Emergency shall mean a situation where a significant risk of harm to persons or property will occur unless immediate remedial action is taken.

Police Department shall mean the Memorial Villages Police Department.

Section 13-119. Permit Required.

A person who desires to place and fund an ALPR camera within the public right-of-way of a street within the City must obtain a permit from the City and pay the applicable fees, if any, as adopted from time to time by the City Council.

Section 13-120. Application for Permit.

Each application for a permit for an ALPR camera pursuant to this Division shall include the following information:

(a) The name and type of entity, if applicable, of the applicant;

(b) The address, telephone number, and e-mail address of the applicant;

(c) If the applicant is a legal entity, the name, address, telephone number, and e-mail address of the person who is authorized to act for the entity with regard to the ALPR camera;

(d) The name, address, telephone number, and e-mail address of one emergency contact;

(e) The desired location of additional ALPR camera(s) in the City.

(f) Additionally, each applicant must commit to execute an agreement with an ALPR camera provider, agree to pay all costs to install and operate the additional ALPR camera(s) and to name the Police Department as the administrator under the agreement.

Section 13-121. Application Review Process.

The permit application shall be made to the City. The City will coordinate with Police Department for review and approval of the placement of the ALPR camera(s) and any related materials to enhance the Police Department's ALPR camera program. Upon approval by Police Department and the City, the applicant shall then enter into an agreement with an ALPR camera provider and shall pay all costs for the installation, maintenance, and ongoing operations of the ALPR camera(s). Once the City has received the executed agreement with an ALPR camera provider, the City will permit the ALPR camera provider to install the ALPR cameras(s) at the specified location in the City.

Section 13-122. Conditions of Permit.

(a) The City may require the removal or relocation of an ALPR camera because of a potential conflict with a public utility or other lawful use of the right-of-way or as necessary for the safety of vehicles or pedestrians.

(b) The City shall have the right, in its sole discretion, to remove an ALPR camera, without notice to the owner of the private security camera, in the event of an emergency and the City will not be liable for damages or the cost of replacement.

(c) The applicant must either own the fee in the property underlying the public right-of-way, or have the written permission of the owner of the underlying fee to place and maintain an ALPR camera at the desired location.

(d) The location of the ALPR camera and related materials must be approved by the City and the Police Department.

(e) Any permit issued pursuant to this Division shall be contingent upon the existence of a fully executed agreement between an ALPR camera provider and the applicant. The Police Department shall be named the Administrator in the contract with the ALPR camera provider and all data shall be provided to the Police Department's account with the ALPR camera provider for the Police Department's Use. All data (including, but not limited to, images and videos) accumulated by the ALPR camera shall be the property of the Police Department and shall be used only for a legitimate criminal investigative purpose.

(f) Any permit issued hereunder shall automatically terminate if the permit holder ceases to have a valid contract with an ALPR camera provider. Upon termination of an agreement between an applicant and an ALPR camera provider, the City will determine whether it will fund the ALPR camera at that location. If the City, at its sole discretion, determines that it will not fund the ALPR camera at that location, the applicant shall immediately remove the ALPR camera and all related equipment from the City's right-of-way.

(g) A permit may be revoked at any time if the City determines, at the City's sole discretion, that the ALPR camera no longer meets the requirements for a permit.

(h) All costs associated with the installation of the ALPR camera(s), including electrical or other related work and associated permits, shall be paid by the applicant.

Section 13-123. Obsolete Automated License Plate Recognition Cameras.

A permit holder shall promptly remove an ALPR camera that is no longer operable or that is no longer being used."

Section 3. **Effective Date.** This Ordinance shall be effective immediately.

Section 4. **Repeal.** This Ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 5. **Penalty.** Any person who intentionally, knowingly, recklessly or with criminal negligence violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction be ordered to pay a fine up to $2,000.00 per violation, with each day constituting a new violation.

Section 6. **Severability**. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention

of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bunker Hill Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED and ADOPTED this, the 15th Day of June, 2021.

Robert P. Lord, Mayor

ATTEST:

Karen Glynn, Acting City Secretary